

Item #4

3-9-06

ORDINANCE NO.

1 **AN ORDINANCE ORDERING AN ELECTION TO BE HELD IN THE CITY OF**
2 **AUSTIN ON MAY 13, 2006, FOR THE PURPOSE OF SUBMITTING A**
3 **PROPOSED CHARTER AMENDMENT TO THE VOTERS; AND PROVIDING**
4 **FOR THE CONDUCT OF THE ELECTION.**

5
6 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:**

7
8 **PART 1.** A charter amendment election shall be held in the City on May 13, 2006, at
9 which the ballot shall be prepared to permit voting "yes" or "no" on the following
10 proposition:

11 Shall the City Charter be amended to limit contributions from individuals outside
12 the Austin city limits, increase and adjust for inflation the aggregate contribution
13 amount that a council member may collect and the maximum individual
14 contribution to a candidate for city council, allow a person elected to city council
15 to fund an account to pay officeholder expenses, allow fundraising by unsuccessful
16 candidates and retired council members to retire campaign debt, and restrict
contributions to and expenditures by certain political action committees?

17 **PART 2.** If this proposition is approved by the majority of the voters voting at the
18 election, the current Article III, Section 8 of the City Charter is repealed and replaced
19 with a new Section 8 to read:
20

21 **§ 8. LIMITS ON CAMPAIGN CONTRIBUTIONS AND EXPENDITURES.**

22 (A) **Limits On Contributions To Candidates.**

23
24 (1) No candidate for Mayor or City Council and his or her campaign
25 committee shall accept campaign contributions in excess of \$300 per
26 contributor per election from any person, except for the candidate and
27 small-donor political committees. The amount of the contribution limit
28 shall be modified each year with the adoption of the budget to increase or
29 decrease in accordance with the most recently published federal
30 government, Bureau of Labor Statistics Indicator, Consumer Price Index
31 (CPI-W U.S. City Average) U.S. City Average. The most recently
32 published Consumer Price Index on May 13, 2006, shall be used as a base
33 of 100 and the adjustment thereafter will be to the nearest \$50.00.

1 (2) Each candidate may authorize, establish, administer, or control only one
2 campaign committee at one time.

3 (3) No candidate and his or her committee shall accept an aggregate
4 contribution total of more than \$30,000 per election, and \$20,000 in the
5 case of a runoff election, from sources other than natural persons eligible
6 to vote in a postal zip code completely or partially within the Austin city
7 limits. The amount of the contribution limit shall be modified each year
8 with the adoption of the budget to increase or decrease in accordance with
9 the most recently published federal government, Bureau of Labor Statistics
10 Indicator, Consumer Price Index (CPI-W U.S. City Average) U.S. City
11 Average. The most recently published Consumer Price Index on May 13,
12 2006, shall be used as a base of 100 and the adjustment thereafter will be to
13 the nearest \$1,000.00.

14 (B) Small-Donor Political Committees.

15 (1) A small-donor political committee is a political committee which has
16 accepted no more than \$25 from any contributor during any calendar year,
17 has had at least 100 contributors during either the current or previous
18 calendar year, has been in existence for at least six months, and has never
19 been controlled by a candidate.

20 (2) Such a committee shall not contribute more than \$1000 per candidate per
21 election for the offices of Mayor and City Council.

22 (C) Limits On Contributions To Non-Candidate Controlled Specific Purpose
23 Political Committees.

24 A specific purpose political committee, as defined in state law, that is not
25 controlled by a candidate and that intends to make a campaign expenditure in a
26 City Council election may not accept a campaign contribution from a contributor
27 that exceeds \$300.00 per council race in which the committee intends to make an
28 expenditure. The amount of the contribution limit shall be modified each year with
29 the adoption of the budget to increase or decrease in accordance with the most
30 recently published federal government, Bureau of Labor Statistics Indicator,
31 Consumer Price Index (CPI-W U.S. City Average) U.S. City Average. The most
32 recently published Consumer Price Index on May 13, 2006, shall be used as a base
33 of 100 and the adjustment thereafter will be to the nearest \$50.00.

34 (D) Coordinated Expenditures.

35 Any expenditure supporting the election of a candidate or opposing the
36 election of an opponent made with the prior consent of the candidate or his or her

1 committee, or with cooperation or strategic communication between the candidate
2 or his or her committee and the person making the expenditure, is considered a
3 contribution and an expenditure.

4
5 (E) Contributions Considered To Be From One Committee.

6 Contributions made by separate political committees established,
7 administered, maintained, or controlled by the same person or persons, including
8 any parent, subsidiary, branch, division, department or local unit of the person, or
9 by groups of those persons, shall be considered to be made by a single political
10 committee.

11
12 (F) Responsibility Of Candidate To Prevent Violations:

13 The candidate, or his or her committee, shall determine whether accepting
14 each contribution would violate this section before accepting the contribution.

15
16 (G) Time Restrictions On Candidate Fundraising; Officeholder Accounts.

- 17 (1) In this section terms have the same meaning they have in Title 15 of the
18 Texas Election Code. The term "officeholder account" means an account
19 in which funds described by subsection (G)(4) must be kept.
"Officeholder" means the mayor or a council member.
- 21 (2) An officeholder, a candidate for mayor or city council, or an officeholder's
22 or candidate's committee may not solicit or accept a political contribution
23 except during the last 180 days before an election for mayor or council
24 member or in which an officeholder faces recall.
- 25 (3) Except as provided by subsection (G)(6), no later than the 90th day after an
26 election, or if a candidate is in a runoff election no later than the 90th day
27 after the runoff, a candidate or officeholder shall distribute the balance of
28 funds received from political contributions in excess of any remaining
29 expenses for the election: (a) to the candidate's or officeholder's
30 contributors on a reasonable basis, (b) to a charitable organization, or (c) to
31 the Austin Fair Campaign Fund.
- 32 (4) An unsuccessful candidate who, after an election, has unpaid expenses
33 remaining, or who has unreimbursed campaign expenditures from personal
34 funds that were made with the intent to seek reimbursement from political
35 contributions, may solicit and accept political contributions after the
36 election until the unpaid expenses are paid and the unreimbursed
expenditures are reimbursed.

1 (5) An officcholder who, after an election, has unpaid expenses remaining, or
2 who has unreimbursed campaign expenditures from personal funds that
3 were made with the intent to seek reimbursement from political
4 contributions, may solicit and accept political contributions after leaving
5 office until the unpaid expenses are paid and the unreimbursed
6 expenditures are reimbursed. An officcholder may also pay the unpaid
7 expenses and reimburse the unreimbursed expenditures from political
8 contributions received during a subsequent campaign.

9 (6) An officcholder may retain up to \$20,000 of funds received from political
10 contributions for the purposes of officcholder expenditures.

11 (7) An officcholder shall keep funds retained under subsection (G)(6) in an
12 account separate from any other funds including personal funds of the
13 officcholder and any other political funds of the officcholder. The funds
14 kept in an officcholder account may be used only for officcholder
15 expenditures. The funds kept in an officcholder account may not be used
16 for campaign expenditures. The funds kept in an officcholder account may
17 not exceed twenty thousand dollars at any time.

18 (8) When an officcholder leaves the Council the funds remaining in an
19 officcholder account must be paid to the Austin Fair Campaign Fund.

20 (H) Applicability To Councilmembers.

21 Any incumbent mayor or councilmember is subject to the regulations
22 applied to candidates for the office he or she holds.

23 (I) Criminal or Civil Litigation Fund.

24 Nothing in this article applies to the solicitation, acceptance, or use of
25 contributions for:

26 (1) defending a criminal action or prosecuting or defending a civil action
27 brought by or against the person in the person's status as a candidate or
28 officcholder; or

29 (2) participating in an election contest or participating in a civil action to
30 determine a person's eligibility to be a candidate for, or elected or
31 appointed to, a public office in this state.

32 (J) Enforcement.

1 The city council may by ordinance adopt penalties and enforcement
2 procedures for violations of this Article.

3 (K) Severability.

4 If any provision of this section, or the application of that provision to any
5 persons or circumstances, shall be held invalid, then the remainder of this section,
6 to the extent that it can be given effect, and the application of that provision to
7 persons or circumstances other than those to which it was held invalid, shall not be
8 affected thereby, and to this extent the provisions of this section are severable.
9

10 **PART 3.** The election shall be conducted as provided in Ordinance No. 20060302-002.
11 The provisions of Ordinance No. 20060302-002 relating to the conduct of the election are
12 incorporated by reference as part of this ordinance.

13 **PART 4.** This ordinance takes effect on _____, 2006.

14 **PASSED AND APPROVED**

15 _____, 2006

16 §
17 §
18 §
19 Will Wynn
Mayor

20 **APPROVED:**

21 _____
22 David Allan Smith
23 City Attorney

24 **ATTEST:**

25 _____
26 Shirley A. Gentry
City Clerk